



What is a bona fide farm?

And why does it matter?



Bona fide farm purposes (from § 160D-903)

- production and activities relating or incidental to the production of:
 - Crops
 - Grains
 - Fruits
 - Vegetables
 - Ornamental and flowering plants
 - Dairy, livestock, poultry
- and all other forms of agriculture, as defined in **G.S. 106-581.1**



§ 106-581.1. Agriculture defined.

- "agriculture", "agricultural", and "farming" refer to all of the following:
 - (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
 - (2) The planting and production of trees and timber.
 - (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
 - (4) Aquaculture as defined in G.S. 106-758.



§ 106-581.1., continued...

- (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- (6) **When performed on the farm**, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, **agritourism**, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.
- (7) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.



§ 160D-903 continued...

- **"when performed on the farm"** in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located.
- the production of a **nonfarm product** that:
 - the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product
 - is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose.
 - Examples:



§ 160D-903 continued...

Sufficient evidence

- sufficient evidence that the property is being used for bona fide farm purposes:
 - a. A farm sales tax exemption certificate issued by the Department of Revenue.
 - b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
 - c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
 - d. A forest management plan.



§ 160D-903 continued...

What about an agritourism building?

- Yes, if it is on a property owned by a person who:
 - holds a qualifying farmer sales tax exemption certificate from the Department of Revenue **or**
 - is enrolled in the present-use value program



§ 160D-903 continued...

What is an agritourism building?

- used for public or private events, including, but not limited to:
 - Weddings
 - Receptions
 - Meetings
 - Demonstrations of farm activities
 - Meals
- Other events that are taking place on the farm **because of its farm or rural setting.**



§ 160D-903 continued...

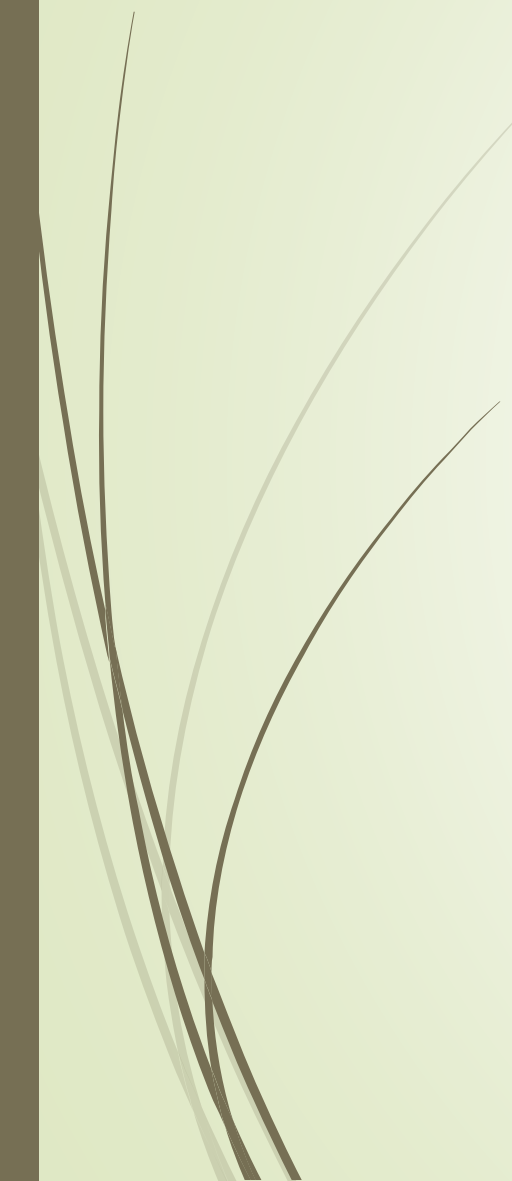
What is agritourism?

- "agritourism" means:
 - any activity carried out on a farm or ranch that:
 - allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including:
 - farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions.



Why is bona fide farm use important?

County Zoning...

- ▶ County Zoning regulations do not affect property used for bona fide farm purposes (§ 160D-903)
 - ▶ However, the use of farm property for nonfarm purposes is still subject to zoning (§ 160D-903)
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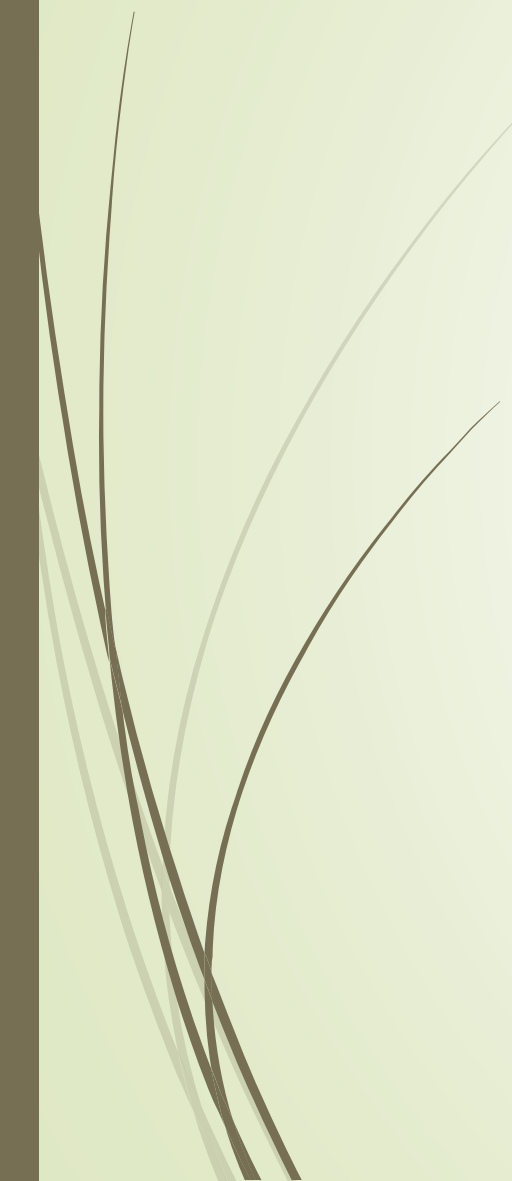
Why is bona fide farm use important? City/Town Zoning...

- Property that is located in the geographic area of a municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt from exercise of the municipality's extraterritorial jurisdiction § 160D-903(c)
- Property that is being used for bona fide farm purposes on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the owner or owners of the property. § 160A-58.54(c)



Why is bona fide farm use important?

The Building Code...

- Certain farm buildings are exempt from the Building Code.
 - North Carolina State Building Code: a "farm building" means any nonresidential building or structure that is used for a bona fide farm purpose.
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Why is bona fide farm use important?

Ag Cost Share...

- ▶ Must be a bona fide farm to be eligible for Agricultural Cost Share Program under G.S. 106-850(b)(10).



Why is bona fide farm use important? VAD and EVAD...

- Although being “bona fide” is not required for VAD and EVAD, bona fide farms certainly qualify, and so receive the following benefits:
 - Public hearings on condemnation of farmland
 - Record notice of proximity to farmland
 - Waiver of water and sewer assessments.
 - If in an EVAD conservation agreement, may receive up to twenty-five percent (25%) of gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations (EVAD only).
 - If in an EVAD conservation agreement, eligible under G.S. 106-850(b) to receive the higher percentage (90%) of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program (EVAD only).